

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No.18759 of 2022 (O&M)

Date of decision : October 17, 2022

Haryana Shahari Vikas Pradhikaran (HSVP)

... Petitioner

Versus

**Usha Rani (since deceased) through
her legal representatives**

... Respondents

**CORAM: HON'BLE MR. JUSTICE HARINDER SINGH SIDHU
HON'BLE MR. JUSTICE LALIT BATRA**

Present: Mr.Saurabh Chawla, Advocate for
Mr.Nitin Kaushal, Advocate for the petitioner.

HARINDER SINGH SIDHU, J.

The petitioner- Haryana Shehri Vikas Pradhikaran (HSVP) has filed this petition for setting aside order dated 15.09.2015 (Annexure P-1) passed by the Additional Chief Secretary to the Government of Haryana, Town and Country Planning & Urban Estate Departments, Haryana-respondent No.1. This order has been passed in a revision petition under Section 17(8) of the Haryana Shehri Vikas Pradhikaran Act (HSVP Act) against the order dated 07.08.2006 of the Administrator- HSVP vide which the appeal of respondent- Usha Rani against the order of resumption dated 14.10.2005 passed by the Estate Officer was dismissed. The revision petition has been allowed and the resumption order dated 14.10.2005 (Annexure P-8) in respect of plot in question was set aside subject to payment of penalty of Rs.100/- per sq. yard within sixty days from receiving the copy of the order

Residential plot No.1085, Sector-16, Faridabad was allotted to Dharam Bandhu Dhawan by HSVP vide allotment letter dated 07.11.1968. It was re-allotted to Vishwa Nath Dhawan (husband of the respondent- Usha

Rani) on 01.09.1969. Subsequently, on 05.10.1987, the plot was transferred in the name of the respondent- Usha Rani due to the demise of her husband.

On 26.02.1996 the plot was resumed on the ground that the respondent was carrying out business of Property Dealing, General Store and STD in the premises which was a residential plot. This was stated to be in violation of the conditions of allotment. The respondent-Usha Rani filed an appeal before the Chief Administrator, HUDA on the ground that the commercial activities had been discontinued. The appeal was allowed vide order dated 27.08.1996 (Annexure P-4). The resumption order dated 26.02.1996 was set aside.

Later, on being informed that the respondent still continued with the commercial activity a show cause notice under Section 17(3) of the HSVP Act was issued as to why the plot be not resumed. After issuing a notice under Section 17(4) the plot was once again resumed by the Estate Officer, Faridabad vide order dated 14.10.2005. After the passing of the resumption order an order of eviction was passed by the Estate Officer, HUDA Faridabad on 16.11.2005 whereby the respondent was asked to vacate the property within seven days. The respondent filed an appeal before the Administrator, Faridabad against the order of resumption and eviction order. The appeal was dismissed vide order dated 07.08.2006. Against the order dated 07.08.2006 the respondent filed a revision petition under Section 17(8) of the HSVP Act before the Principal Secretary, Town and Country Planning Department. When the revision petition came up for hearing it was pointed out by the Legal Representatives (L.Rs) of Usha Rani that she had expired during the pendency of the revision petition. Thereafter vide order dated 22.10.2013 the revision petition was dismissed with liberty to the LRs to file a fresh petition within

sixty days. The LR's filed the revision petition on 16.12.2013.

During the pendency of the revision petition a policy dated 04.08.2014 on the subject of de-resumption of residential plots which had been resumed due to misuse was issued. As per this policy in all cases where plots have been resumed by the Estate Officer due to commercial use of the residential plots and such misuse had been stopped, may be restored subject to the fulfilment of conditions laid down.

Relying on the policy, the revision petition filed by the Legal Representative of Usha Rani was allowed vide order dated 15.09.2015 (Annexure P-1). The resumption order dated 14.10.2005 (Annexure P-8) was set aside subject to the payment of penalty of Rs.100/- per sq. yard within sixty days. The LR's of the respondent Usha Rani were directed to file an affidavit in terms of the policy within sixty days from the date of the order. It has been noted in the order that the respondents have categorically stated that the commercial activity being carried out in the residential plot has been stopped.

Mr. Chawla, Ld. Counsel for the petitioner-HSVP has contended that the respondents have been continuously misusing the property. Resumption order was passed two times because of the misuse. He further argued that though Usha Rani had expired on 21.04.1993 yet the revision petition against the order dated 07.08.2006 was filed on her behalf on 11.09.2006. It was only at the time of the final hearing of the revision petition that it was pointed out that Usha Rani had expired.

Having heard Mr. Chawla, we find there is no ground to entertain the petition.

The order impugned is dated 15.09.2015. This petition has been filed on 18.07.2022 i.e. after a delay of about seven years. This

petition is, therefore, liable to be dismissed on the ground of delay and laches.

Moreover, the impugned order has been passed in terms of the policy dated 04.08.2014 on the subject of de-resumption of residential plots which had been resumed due to misuse. It is clearly stated in the policy that it will apply to all residential plots which have been resumed till 30.04.2014. It provides that if appeals/ revisions in respect of such plots are pending then such appeals/ revisions are to be decided in terms of the policy. Mr. Chawla has not been able to point out as to how the impugned order is against the policy. The argument of Mr. Chawla that the earlier revision had been filed on behalf of Usha Rani though she had died before that, is not material. Firstly, because vide order dated 22.10.2013 of the Principal Secretary, Town and Country Planning, Haryana that petition was dismissed with liberty to the legal representatives of Usha Rani to file a fresh petition. Secondly, the LRs of Usha Rani, in any case, could independently challenge the resumption orders being LRs of the allottee.

Thus, this petition is dismissed.

(LALIT BATRA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

October 17, 2022

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No